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Notice of Allowability

Application No.

09/809,073

Examiner

Michael J. Simitoski

Applicant(s)

TARBOTTON ET AL.

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response of 8/23/2007.
2. ☒ The allowed claim(s) is/are 1,2,4-7,11-16,18-21,25-30,32-35,39-45 and 47.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20070912.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.



KAMBIZ ZAND
SUPERVISORY PATENT EXAMINER

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DETAILED ACTION

1. The response of 8/23/2007 was received and considered.
2. Claims 1-2, 4-7, 11-16, 18-21, 25-30, 32-35, 39-45 & 47-49 are pending.
3. An Examiner's amendment canceling claims 48-49 begins on p. 3 of this action.
4. The Examiner's reasons for allowance begin on p. 4.

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EXAMINER'S AMENDMENT

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin Zilka on 9/11/2007.

The application has been amended as follows:

Please CANCEL CLAIM 48.

Please CANCEL CLAIM 49.

Allowable Subject Matter

6. The following is an examiner's statement of reasons for allowance:

Regarding claims 1, 7, 12, 15, 21, 26, 29, 35, 40 & 47, **Kephart** discloses a user controlled program specifying logic (col. 5, lines 57-61) to specify said at least one computer program to be banned from use (col. 1, lines 35-49 & col. 5, lines 57-61), said at least one computer program comprising an undesired, non-virus computer program (col. 1, lines 15-34), and banned program identifying data generating logic responsive to said user controlled program specifying logic to generate banned program identifying data (signature, col. 5, lines 57-61) for at least one computer program to be banned from use, said banned program identifying data being operable to control anti computer virus logic (scanner, col. 1, lines 35-49) to identify computer programs banned from use (signatures are used in a virus scanner, col. 1, lines 35-49 & col. 2, lines 5-12). While Kephart is silent regarding the order of identifying computer viruses and programs banned from use, it is an inherent feature of Kephart's invention (a computer program) that, if the product/apparatus/method of Kephart is executed more than once, as is common in the art, regardless of whether viruses or non-viruses are identified first on the first execution, the second execution will have identified non-viruses after viruses because it identifies both each time.

However, regarding claim 1, the prior art of record fails to teach or disclose, either alone or in combination, wherein an anti-virus scan is performed when a file access request is received, and if said anti-virus scan is not passed, an anti-virus action is triggered and a fail response is returned to an operating system, and if said anti-virus scan is passed, a scan for the

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computer programs banned from use is performed, in combination with the other elements of the claim. Claims 2, 4-6 & 43-45 are allowed based on their dependence on claim 1.

Regarding claim 7, the prior art of record fails to teach or disclose, either alone or in combination, wherein said banned program identifying data is encrypted with a private key and said anti computer virus logic uses a corresponding public key to decrypt said user generated banned program identifying data prior to use, wherein said decrypted banned program identifying data is stored within a secured memory region once decrypted, in combination with the other elements of the claim. Claims 11, 13 & 14 are allowed based on their dependence on claim 7.

Regarding claim 12, the prior art of record fails to teach or disclose, either alone or in combination, wherein said anti computer virus logic responds to an absence of said user generated banned program identifying data by performing at least one of: (i) issuing an alert message indicating an absence of said user generated banned program identifying data, (ii) restoring said user generated banned program identifying data from a remote source, (iii) disabling a computer upon which said anti computer virus logic is executing, in combination with the other elements of the claim.

Regarding claim 15, the prior art of record fails to teach or disclose, either alone or in combination, wherein an anti-virus scan is performed when a file access request is received, and if said anti-virus scan is not passed, an anti-virus action is triggered and a fail response is returned to an operating system, and if said anti-virus scan is passed, a scan for the computer

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programs banned from use is performed, in combination with the other elements of the claim.

Claims 16 & 18-20 are allowed based on their dependence on claim 15.

Regarding claim 21, the prior art of record fails to teach or disclose, either alone or in combination, wherein said banned program identifying data is encrypted with a private key and said anti computer virus logic uses a corresponding public key to decrypt said user generated banned program identifying data prior to use, wherein said decrypted banned program identifying data is stored within a secured memory region once decrypted, in combination with the other elements of the claim. Claims 25, 27 & 28 are allowed based on their dependence on claim 21.

Regarding claim 26, the prior art of record fails to teach or disclose, either alone or in combination, wherein said anti computer virus logic responds to an absence of said user generated banned program identifying data by performing at least one of: (i) issuing an alert message indicating an absence of said user generated banned program identifying data, (ii) restoring said user generated banned program identifying data from a remote source, (iii) disabling a computer upon which said anti computer virus logic is executing, in combination with the other elements of the claim.

Regarding claim 29, the prior art of record fails to teach or disclose, either alone or in combination, wherein an anti-virus scan is performed when a file access request is received, and if said anti-virus scan is not passed, an anti-virus action is triggered and a fail response is returned to an operating system, and if said anti-virus scan is passed, a scan for the computer

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programs banned from use is performed, in combination with the other elements of the claim.

Claims 30 & 32-34 are allowed based on their dependence on claim 29.

Regarding claim 35, the prior art of record fails to teach or disclose, either alone or in combination, wherein said banned program identifying data is encrypted with a private key and said anti computer virus logic uses a corresponding public key to decrypt said user generated banned program identifying data prior to use, wherein said decrypted banned program identifying data is stored within a secured memory region once decrypted, in combination with the other elements of the claim. Claims 39, 41 & 42 are allowed based on their dependence on claim 35.

Regarding claim 40, the prior art of record fails to teach or disclose, either alone or in combination, wherein said anti computer virus logic responds to an absence of said user generated banned program identifying data by performing at least one of: (i) issuing an alert message indicating an absence of said user generated banned program identifying data, (ii) restoring said user generated banned program identifying data from a remote source, (iii) disabling a computer upon which said anti computer virus logic is executing, in combination with the other elements of the claim.

Regarding claim 47, the prior art of record fails to teach or disclose, either alone or in combination, wherein an anti-virus scan is performed when a file access request is received, and if said anti-virus scan is not passed, an anti-virus action is triggered and a fail response is returned to an operating system, and if said anti-virus scan is passed, a scan for the computer programs banned from use is performed, in combination with the other elements of the claim.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Simitoski whose telephone number is (571) 272-3841. The examiner can normally be reached on Monday - Thursday, 6:45 a.m. - 4:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571) 272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 12, 2007
MJS
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SUPERVISORY PATENT EXAMINER